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City Council
Wednesday, May 7, 2014
Kapolei Hale, Kapolei, Hawaii 97707

Testimony: In Opposition to Bill 69(2013),CD1

Dear Chair Martin and Councilmembers,

I have read HRS 445-111 to 445-112.5 as Councilmember Pine suggested at the last budget committee hearing and it appears that a loophole has been embedded in the section on vehicular advertising.

When loopholes occur in legislation they are often buried so that the public accepts on face value the initial description of the bill. So, for example, the definition of an "outdoor advertising device" might be assumed by the public to cover advertisements on vehicles. When a section on vehicular advertising is added at the end, the language beginning with "It is unlawful for any person to operate ...any vehicle...carrying a vehicular advertising device"...could be reasonably interpreted as intended to be a ban on vehicular advertising.

However, the complex language of this section (445-112.5) muddies the water and as Councilmember Pine pointed out, the addition of the phrase "used primarily to display a vehicular advertising device" could indeed leave the public with the impression that protections are in place when in fact they have been strategically removed.

This is significant for Bill 69.

If we accept the muddled language that creates this possible loophole, we would have to admit that Bill 69 is moot since advertising on any public or private vehicle would be allowed as long as advertising was not the primary purpose. So you could advertise on a bus if transportation was the purpose, a tour van if you were an ecotour company, and possibly your own car or truck if the primary purpose was to take you to work.

Bill 69 is not as much about bus billboards as it is about weakening or removing the restrictions on advertising on public and private transportation of any kind. This makes it a complex bill with long range implications.

I ask that you consider whether or not, by moving this bill forward, you will be opening the door to enforcement problems and endless legal challenges.

Councilmember Pine is correct. This issue should be review by the legislature.

Please defer Bill 69 until the law upon which it is based is clearly understood.

Mahalo for the work you do daily on our behalf.

Pauline Mac Neil
Kailua, HI 96734

[\$445-112.5] Vehicular advertising prohibited; penalty. (a) It is unlawful for any person to operate or park, or cause to be operated or parked, on any street, roadway, or other public place, or on any private property that can be seen from any street, roadway, or other public place, any vehicle or trailer carrying a vehicular advertising device for consideration or any other economic benefit if the vehicle or trailer is used primarily to display a vehicular advertising device. The phrase "for consideration or any other economic benefit" shall not include any benefit derived by the owner or operator of the vehicle or trailer from the effect of the advertising.

(b) Every day of continued violation of this section shall constitute a separate offense.

(c) Any person convicted of violating this section shall be fined:

(1) Not less than \$200 or more than \$1,000, for the first offense;

(2) Not less than \$500 or more than \$2,000 for the second offense;
and

(3) Not less than \$1,000 or more than \$5,000 for the third and subsequent offense.

(d) As used in this section:

"Trailer" means a vehicle or conveyance with or without motive power designed to be pulled or propelled by a vehicle or other form of power.

"Vehicular advertising device" means any sign, writing, picture, poster, painting, notice, bill, model, display, symbol, emblem, or similar device, which is so designed that it draws the attention of persons in any public street, roadway, or other public place. [L 2006, c 222, §2]

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